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Richard J. Wilson is Professor of Law and founding director of the International Human Rights Law Clinic at the Washington College of Law, American University, in Washington, DC, where he has taught since 1989. He taught at CUNY Law School from 1985-1989, and has been a visiting professor at law schools in the Netherlands, Japan and Peru, a Fulbright Scholar in Colombia, and during spring semester, 2010, he was the Tillar House Fellow at the American Society of International Law. He has consulted with law schools on curricular reform in more than 40 countries worldwide. His litigation work includes representation of detainees at Guantanamo Bay, Cuba in federal courts and military commissions; several U.S. capital cases at the Inter-American Commission on Human Rights; three cases in the Inter-American Court of Human Rights; and counsel for the European Union in friend-of-court briefs in the US Supreme Court, cited by the majority in striking down the death penalty in *Atkins v. Virginia* (2002) (persons with mental retardation), and *Roper v. Simmons* (2005) (juveniles under 18).

REMARKS:

Thank you Tim, and particular thanks to the students who gathered this amazing panel. I found it incredibly enlightening to hear each of the other panelists speak. There were great contributions, and I feel honored to be part of the group.

I feel a bit like the latecomer. My topic for tonight is on what happens now and what will happen in the future

during and after the Arab Spring with regard to reform and transition. In particular, I am going to speak about a topic with which I have done much previous work—reform of legal education. Something that I think will resonate with students here, particularly, is the issue of clinical legal education. I will say more about the particular context of that in a moment, but the two phrases that Joost used in his presentation resonate particularly powerfully for me: the invocation of the Arab Spring as a movement or cry for social justice and then his later invocation of giving the U.S. a kind of “free pass.”

Before I begin to talk in more detail, I should explain exactly what I mean by “clinical legal education.” Elsewhere, I have said it is composed of five essential components: (1) students providing legal services to actual clients with real legal problems within a framework permitted by local statute, bar or court rules permitting limited student practice, advice or other legal services; (2) schools granting academic credit for participation in the clinical course, within the law school curriculum; (3) clients entering the program who are marginalized or legally indigent; generally, they are not able to afford the cost of legal representation and/or they come from traditionally disadvantaged, marginal or otherwise underserved communities; (4) attorneys supervising students who are licensed to practice law in the relevant jurisdiction, preferably a professor who shares the pedagogical objectives of clinical legal education; and (5) students previously or concurrently attending a law school course, for credit, on the skills, ethics and values of practice, as well as the necessary predicate doctrinal knowledge for the area of practice of the clinic.¹

¹ Richard J. Wilson, *Western Europe: Last Holdout in the Worldwide Acceptance of Clinical Legal Education*, 10 GERMAN L.J. 823, 829-30 (2009).

Our human rights clinic at American University has been in operation for 23 years, and yet this fall was the first case we have ever had from the Middle East. We have a Syrian refugee to whom we are providing help in her quest for asylum in the United States (U.S.). It was my hope to be able to talk to you about her case but she is understandably very concerned about public revelation of information about her case and the risk to her family back in Syria, so she asked me not to speak about it in detail. I will honor that request.

In the spring, we hope to take on our first project in the Occupied Palestinian Territories involving Bedouins in the West Bank who are in a land conflict with the Israeli government and have legal case in which lawyers from the Norwegian Refugee Council are involved. We will partner with them on the issues.

Those are the first two cases we have taken from the Middle East, and I do not think it is a coincidence that this happened this way. I want to talk a little bit about this issue of how clinics have developed in the Middle East and how our particular work has evolved in that area. First, why is the work important? Second, what is a little bit of the history of the work, particularly in the Middle East? Third, what is that work? And fourth, is it imperialistic, part of that “free pass” that Joost mentioned?

First why should we talk about it? Aren’t there bigger issues?

Yes, there are; stabilization and security come before institution-building. But, during transitions such as the Arab Spring, we should talk about legal education because I think every trauma to nations ends up with a

transition period, followed by reconstruction, and usually, legal education is one of the last institutions to reform. So any movement in this field is a positive step.

Each great reform movement in human rights law in the 20th century followed major turmoil and destabilization, much of it brought on by law itself. After WWII, in fact, we saw in the Nuremberg Jurists' Trial, *United States v. Altstötter et al.*,² that some lawyers and judges stood trial for upholding the law on the books of the Nazi regime. They were tried for following that law, and their experience puts all of us lawyers in a very difficult moral quandary as to when we should follow the law on the books and when we should rebel against it. When should we say no? When should we say we will not follow the law because the law is morally wrong? Few of us have the courage to take that action. Job security is often more important than principal. The lawyers and judges in the Jurists' Trial were convicted and sentenced to terms in prison for following the law and for enforcing the law on the books. Law reform, grand or small, follows during transitions from conflict to stability, but historically, legal education is among the slowest of legal institutions to reform.

Trauma to nations leads to space for reform. It leads to a kind of vacuum where new ideas can flourish, and I think that there is no place where this is more apparent than what we saw in Central and Eastern Europe after the fall of the Soviet Union, from 1989-91. I had the privilege of working in that geographic area during the 90s with reform of clinical legal education in the former Soviet Union and the Caucasus. I saw programs of law reform

² *United States v. Alstötter* (the Justice case), 3 T.W.C. 954 (U.S. Military Trib. 1951).

flourish incredibly quickly. This growth of the clinical movement in countries like Poland gathered such grassroots strength that it became a national obligation that all law schools have clinical programs, and there is now a national body in Poland that sets up standards and decides what the minimum floor is for all clinical programs. Every law school has to offer a clinical experience in order for students to be able to get through law school. In Poland, the reforms are profound and lasting, and they are but one example of the openings for legal education reform after profound changes.

Yet, in 2006 one of my colleagues, Professor Peggy Maisel, wrote an article about the development of clinical legal education globally between 1981 and 2003. She charted the work and gave great credit to what was going on in Central and Eastern Europe, but one region, the Middle East, was notably absent from reform movements. Prof. Maisel made this observation about why reform of legal education in the Middle East had not occurred: "perhaps because of cultural attitudes, language issues, and the role religion may play in the law. Very few respondents reported working in the Middle East outside of Israel."³ That was true in 2006, and it was still true in 2011 when Frank Bloch edited a book called "*The Global Clinical Movement*" which documents this incredible ground-swell of interest in clinical legal education around the world.⁴ Yet there is no chapter on the Middle East in his collection of essays by region. There is only brief mention in the Africa chapter of a clinic that started in 2007 in Morocco.

³ Peggy Maisel, *The Role of U.S. Law Faculties in Developing Countries: Striving for Effective Cross Cultural Collaboration*, 14 CLINICAL L. REV. 465, 506 (2007-2008).

⁴ THE GLOBAL CLINICAL MOVEMENT: EDUCATING FOR SOCIAL JUSTICE (Frank Bloch, ed., Oxford Univ. Press, 2010).

So it was quite an event when, this past May of 2012, a regional Middle East colloquium on access to justice and legal education reform was held in Jordan, in which I participated. There was talk about invoking clinical legal education as a reform movement there. It was very tense. The participating countries included both Palestinians from the occupied territories and Israeli clinical teachers. On the first day, the Palestinians made some strong political statements about not wanting to be in the same room with the Israelis. By the end of the conference, everyone became more comfortable with each other. In addition to the Palestinians and Israelis, there were Egyptians, folks from Iraq, teachers from Oman, the UAE, Jordan, and Kuwait. There were also international experts from other areas of the world where legal clinics are thriving: the U.S., France, Spain, Poland, South Africa, Thailand, and others. It was quite an event, and we did a lot of work on very basic issues about legal education and access to justice.

This conference was about providing supervised law student assistance to people who would not otherwise have access to a lawyer. There is remarkable resistance from both traditional law faculties and bar associations who find this a threat to putting bread on their table, but this is a movement that has gained momentum and is moving forward; my sense is it is just the beginning of a very serious reform movement that might grow and flourish in that region.

The work that clinics do might be called cross-cutting, in the sense that it is not just providing legal services to poor people, but can include educating people about their rights. There is a program called Street Law that is an educational program for individuals in the

community, and it is but one example of the work done by clinics. Another example is the work done by a friend in Turkey, Professor Idil Elveris. Her book, *Alone In The Courtroom: Accessibility And Impact Of Criminal Legal Aid Before The Istanbul Court* is an empirical study of the absence of lawyers in the Istanbul courts and the need for the provision of adequate counsel in those contexts, based in part on studies done by she and her students in a law clinic at Bilgi University in Istanbul.⁵ I mention Turkey because I think Turkey can be a lever in the region and is a place where clinical legal education has begun to take hold. Israel is a place where clinics have flourished. The clinics in Haifa and Tel Aviv are very sophisticated; they have provided clinical courses for years and years. So these are great movements for reform under way in the region.

Lastly, are legal clinics a vestige of the U.S. legal education system and, if so, is their export imperialistic?

I am willing to allow for some possible hubris on my part. But my strong sense is that the export of clinical legal education to the Middle East is not imperialistic. These are movements that most often begin with foreign donors. Also, the movement would not happen but for donors such as the U.S. Agency for International Development (USAID), which paid for the conference in Jordan, and the Open Society foundations that Professor Sellers and I have worked for before, as well as a number of other private donors and national donors that have contributed to these kinds of changes. But my strong sense is the reform movement has a lot of resonance in the region, and now we are beginning to see, if you will, a kind of movement between the countries other than the original

⁵ See generally IDIL ILVERIS, *ALONE IN THE COURTROOM: ACCESSIBILITY AND IMPACT OF CRIMINAL LEGAL AID BEFORE THE ISTANBUL COURT* (Istanbul Bilgi Univ. Yayinlari, 2007).

donor nations. So, in the meetings in Jordan, the president of the Polish legal clinic association was there to talk about their recent experience, and we had South African, Spanish, French and Indian law professors there who were talking about their experience with clinical legal education. I do not think this is something that you could sell as “made in America,” even though we have a rich and long tradition of legal clinical education. It will not work if it is not wanted locally, and it feels to me as though there is a reason why this movement has flourished and grown so exponentially. That is also why there is such promise for clinical legal education in the Middle East.

My sense is that this kind of experiential learning is universal and that what we know about adult learning and cognition tells us that people love to learn experientially, and do so quite effectively. Students increasingly demand it, and I hope you do here.